

*Berman J.*

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ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 8/19/11

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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EMMET & CO. INC. and  
FIRST MANHATTAN CO.,

Plaintiffs,

-against-

CATHOLIC HEALTH EAST and  
MERRILL LYNCH & CO., INC.,

Defendants.

11-Civ-3272 (RMB)

**STIPULATION AND  
ORDER**

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WHEREAS, on July 27, 2011, plaintiffs Emmet & Co. Inc. and First Manhattan Co. (together, "Plaintiffs") filed the First Amended Complaint (the "Complaint") against defendants Catholic Health East and Merrill Lynch & Co., Inc. (together, "Defendants");

WHEREAS, Plaintiffs served the Complaint on Defendants on July 28, 2011; and

WHEREAS, pursuant to Federal Rule of Civil Procedure 12(a)(1), Defendants' time to answer, move, or otherwise respond to the Complaint would expire on August 18, 2011 and this is Defendants' first request for an extension of this deadline;

**IT IS HEREBY STIPULATED AND AGREED** by and between the undersigned counsel for the parties, subject to the approval of the Court, as follows:

1. Defendants' time to answer or otherwise respond to the Complaint is extended from August 18, 2011 to September 2, 2011.
2. Should Defendants move to dismiss the Complaint, pursuant to Rule 2(A) of the Individual Practices of Honorable Richard M. Berman, Defendants will submit a letter to

the Court requesting a pre-motion conference by September 2, 2011 and Defendants' motion shall be due on a date to be set by the Court following the pre-motion conference.

3. Nothing contained herein relieves any party from complying with Paragraph Five (5) of Magistrate Judge Peck's Scheduling Order dated July 7, 2011, requiring counsel to advise the Court by August 19, 2011 whether there will be "early" motion practice (to dismiss or for summary judgment).

4. This stipulation may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement, and a facsimile or pdf copy may be filed in place and instead of the original.

Dated: New York, New York  
August 17, 2011

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*Attorneys for Plaintiffs*

Ordered:

*Richard M. Berman*

Dated:

*8/18/11*